



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

May 10, 2004

Mr. Greg Moore
Becker Morgan Group, Inc.
738 S. Governors Avenue
Dover, DE 19904

RE: PLUS review – PLUS 2004-04-01; Handler/Worthington Properties

Dear Mr. Moore:

Thank you for meeting with State agency planners on April 21, 2004 to discuss the proposed plans for the Handler Worthington project to be located on Brenford Road and Rabbit Chase Road, near Smyrna.

According to the information received, you are seeking annexation into the Town of Smyrna and a rezoning of the property from AC to R2-A. Specifically, this project is to develop 579 residential units on 103.50 acres.

It should be noted that this parcel is currently with the Town of Smyrna Comprehensive Plan as a proposed annexation area and it is identified as being in the “developing” under 1999 strategies and “investment level 2” under the DRAFT strategies update. With this in mind, the State has no objection to this parcel being annexed or developed and we are working with the Town of Smyrna regarding the Plan of Service for this area.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that, if annexed, the Town of Smyrna will be the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the Town.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

There will be a need to coordinate design and cross access with the other developments in the area. Notably, the developer should provide linkages to the projects to the north, and coordinate with other developers and the town on needed road and infrastructure improvements.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

It was noted at the PLUS meeting that there was a Queen Anne style house, circa 1870, in the middle of the subject property, however according to the developer; the house was demolished some time ago. There is a medium to high probability for prehistoric archaeological sites and a high probability for historic archaeological sites within this area.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

On February 4, 2004, the developer and their traffic engineer met with DelDOT and the Town of Smyrna to determine the scope of work for a traffic impact study. Presently it takes about a year from the initial scoping meeting until the completion of DelDOT's review of the final study. DelDOT commended the developer for coming to them early in this regard. By doing so, they are acting to keep the TIS process from delaying their project.

The DelDOT review of the TIS will identify any needed off-site improvements. Thus far, they have determined that part of the improvements to Brenford Road and Rabbit Chase Lane will include a bicycle and pedestrian path, to be located in a 15-foot permanent easement along the site's road frontage.

The lands to the north of this project are under development in the Town as The Meadows of Smyrna and the lands to the east of it are under development in the Town as Hickory Hollow. The lands to the west of it are under development in the County as Brenford Station. Where the plans for these developments have been recorded with stub streets leading to the subject land, DelDOT will recommend that the Town require connections to those stubs. Where the plans for these developments are not yet recorded, DelDOT asked that the developer work with their neighbors, the Town and as necessary the County, to agree on suitable locations for interconnections.

DelDOT recommends that sidewalks be required on both sides of all internal streets.

The developer's engineer should coordinate with our Subdivision Manager, Mr. George Shaw, to determine what DelDOT will require regarding the proposed site entrances. Mr. Shaw may be reached at (302) 760-2261.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

Soils

According to the soil survey update, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

Well Drained – Sassafras

Moderately well drained – Woodstown

Sassafras is a well-drained upland soil with few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development.

Wetlands

Although Delaware's Statewide Wetland Mapping Project (SWMP) maps show no wetlands on subject site, the soil survey suggests that some wetlands may be present. Because of this mapping discrepancy, a wetlands delineation is recommended as a precautionary measure to ensure that no wetlands are inadvertently developed. Further, the applicant is strongly encouraged to maintain a 100-foot minimum buffer width from the landward edge of all delineated wetlands.

If stormwater BMPs are placed in the proposed project that utilizes soil infiltration as the discharge technique, it is recommended that the areas used for the BMPs be stake and heavy equipment not allowed on those areas. If construction equipment is allowed to indiscriminately travel over these areas, the soil may be compacted such the infiltrative BMP may not function as designed.

TMDLs

Although Total Maximum Daily Loads (TMDLs) as a "pollution runoff mitigation strategy" to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the Leipsic subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available

technologies (BATS) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

Stormwater Management

The Drainage Section does not have a clear understanding where the on site storm water will be released off site. The Drainage Section is aware of a drainage concern to the North East of the proposed project in the Lawndale/Holly Hills area. It is the request of the Drainage Section that no storm water from this proposed project be released to flow towards the Lawndale / Holly Hills area. The Drainage Section does ask that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

The developer is requested to schedule a meeting with Kent Conservation District (302) 697-2600 and DNREC Drainage Section (302) 739-4411 to ensure that drainage from the stormwater management systems has adequate conveyance and that issues related to stormwater are resolved early. It would also be beneficial to know the soils capacity for infiltration to explore that opportunity for stormwater recharge and infiltration.

Nuisance Species

The ponds scattered throughout the subdivision will likely attract waterfowl like resident Canada geese and mute swans that will create a nuisance for community residents. Although small numbers of these species are enjoyed by residents, geese and swans can quickly multiply and overwhelm the area. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Ponds that remain in the subdivision plan should be landscaped to deter nuisance species. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around ponds, are not as attractive to geese because they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the homeowners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with a reduction in the number of ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Recreation

DNREC discourages building trails or other recreational facilities adjacent to storm water basins where standing water and the potential flash flooding exist. Storm water infrastructure and active recreation facilities are not compatible.

Further, DNREC recommends that sidewalks be built fronting every residence. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc.

If a trail system is planned, it is recommended that a series of stacking trail loops be designed with access points in each subdivision “pod” and connections to adjacent communities. Community trail systems with long continuous trails, perimeter-only trails, and systems with few access points, often go unused and neglected. For trail design/construction specifications, contact Susan Moerschel at (302) 739-5285.

The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Kent County are listed below

High Priorities

Walking or Jogging Paths

Bike Paths

Swimming Pools

Picnic Areas

Playgrounds

Fishing Areas

Moderate Priorities

Skate Facilities

Hiking Trails

Baseball/Softball Fields

Campgrounds

Soccer Fields

Volleyball Courts

Basketball Courts

Canoe/Kayak Access

State Fire Marshal’s Office – Contact: Kevin McSweeney 739-3696

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation:

a. **Fire Protection Water Requirements:**

- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.
- Where a water distribution system is proposed for townhouse type dwellings it shall be capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required.
- The infrastructure for fire protection water shall be provided, including the size of water mains.

b. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Brenford Rd & Rabbit Chase Rd must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

c. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Name of Water Supplier
- Proposed Use
- National Fire Protection Association (NFPA) Construction Type
- Townhouse 2-hr separation wall details shall be shown on site plans
- Maximum Height of Buildings (including number of stories)

- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

This property is located next to the permanently preserved Willis Ryan agricultural preservation district. The Delaware Department of Agriculture has noted that if a new subdivision borders or is near an agricultural preservation district, then the developer of the new subdivision is required to adhere to the following, quoted from the Delaware Code:

§ 910. Agricultural use protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

“This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.”

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees. (68 Del. Laws, c. 118, § 2.)

DDA is encouraged to see a mixed use plan for this subdivision and hopes that if this property must be developed that is done so in a mixed use fashion.

Public Service Commission - Contact: Kevin Neilson 739-4247

Part of this property appears to be within an existing Tidewater Utilities CPCN area. The rest is a pending Tidewater CPCN application. Tidewater must complete the application process.

Delaware State Housing Authority – Contact: Karen Horton 739-4263

DSHA supports this proposal because some of the units will be targeted for first-time homebuyers. The provision of these units will help address the need for affordable homeownership that was identified in the 2003 Statewide Housing Needs Assessment.

Department of Education – Contact: Nick Vacirca 739-4658

This development could generate an estimated 290 additional students for the Smyrna School District. It is recommended that the developer submit a package to the school district for informational purposes.

If the development is approved and built, please use the following information for school transportation planning. If there are homes more than 1/2 mile from the nearest public road (outside the development), developers should plan wide enough streets so that large school buses can access and turn around (without backing) from the furthest areas within the development while picking up and dropping off students. Should there not be any sites more than 1/2 mile from the nearest public road, provisions for appropriate pick-up and drop-off at the development entrance should be included.

During the PLUS review for a neighboring proposal, Brookwood Crossing, it was noted that the developer has set aside a piece of the property as a potential school site. With this in mind, the Handler Worthington Property should consider sidewalks and trails that will enable the children to walk or ride a bike to the school if it is built. We encourage the developer to discuss this with the Town.

PLUS – Handler/Worthington Property

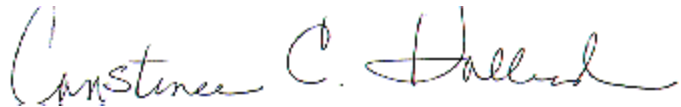
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Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being more prominent.

Constance C. Holland, AICP
Director

CC: Worthington Properties, LLC & Handler
Investment Partners, LLC
Town of Smyrna
Kent County